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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,372	07/15/2003	Ian Boddy	71486-0051	1371
20915	7590	09/23/2004	EXAMINER	
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503			JUBA JR, JOHN	
			ART UNIT	PAPER NUMBER
			2872	

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/604,372

Applicant(s)

BODDY, IAN

Examiner

John Juba, Jr.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 15-25 and 29-35 is/are rejected.
- 7) ☒ Claim(s) 12-14, 26-28, and 36-40 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 07/15/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

Claims 8, 9, 15 – 17, 22, and 23 are objected to because of the following informalities. Appropriate correction is required:

In claims 8 and 22, there is no antecedent basis for “the at least one row”. Claims 9 and 23 are objected to for containing the same informality through their dependency from claim 8.

Claims 15 – 17 are objected to as being narrative in form and as lacking a positive recitation of any structure comprising the heater element itself.

At the beginning of claim 16, “he” should read “The”.

Applicant is advised that should claim 9 be found allowable, claim 23 (as depending from claim 8, instead of claim 22) will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15 – 22 are rejected under 35 U.S.C. 102(b) as being anticipated by NAVARRA DE COMPONENTES ELECTRONICOS (FR 2,666,717 A1; hereinafter "NAVARRA"). Referring to the figures and attached English-language translation, NAVARRA disclose a heater for a vehicular mirror wherein the heater element is selectively sizable to conform to a size of a selected one of a plurality of mirrors.

With regard to claim 16, NAVARRA teach cutting to match the size of the surface to be covered. Thus, it will be appreciated that the element is sized to conform to the perimeter of the selected element, in addition to the area within the mirror perimeter.

With regard to claims 18 – 22, NAVARRA disclose "cut-outs" (4) which, as evident by inspection, form clear "apertures" and which are generally slit-shaped, parallel to each other in two rows (Fig. 2), and "laterally" spaced (as may later be recited in claim 23). The heater element is constructed so as to allow deformation of the "cut-outs" as the element is manipulated to conform to the shape of the selected mirror. As evident by the variously distorted cut-outs shown in Figure 4, when manipulated to conform to the size and shape of the selected mirror, some portions of the heater element are stretched, and other portions are compressed. In this configuration, the slits are inclined with respect to each other.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 9, 23, and 29 – 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over NAVARRA (FR 2,666,717 A1), in view of VERRERIES HIRTZ SA (GB 2,250,406 A). As set forth above, NAVARRA disclose the heater element substantially as claimed. However, NAVARRA do not disclose a housing or a mounting plate arranged as recited.

In the same field of endeavor, VERRERIES HIRTZ disclose a flexible heater element for an automotive mirror. VERRERIES HIRTZ teach that it is customary to dispose a heated automotive mirror assembly within a housing, to protect the mirror element. In order to facilitate mounting and adjustment of the mirror within the housing, VERRERIES HIRTZ teach the provision of a mounting plate (19) in register with the mirror, with the heater element mounted adjacent the mirror to the mounting plate within the housing.

It would have been obvious to one of ordinary skill to provide a mounting plate and housing for the heated mirror of NAVARRA, in the interest of protecting the mirror element with the housing, and in the interest of facilitating mounting and adjustment of

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the mirror within the housing, as suggested by VERRERIES HIRTZ. In accordance with the latter teaching, the elements would have been arranged as recited.

With particular regard to method claims 29, *et seq.*, NAVARRA fairly teaches the method steps, short of mounting the heater element in the housing adjacent the mirror. VERRERIES HIRTZ fairly suggest the additional step of mounting the heater element adjacent the mirror within a housing. Thus, it would have been obvious to one of ordinary skill to perform the additionally recited steps, in the interest of protecting the heated mirror, as fairly suggested by VERRERIES HIRTZ.

Claims 10, 11, 24, 25, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over NAVARRA and VERRERIES HIRTZ, and further in view of Holzer, et al (U.S. Patent number 5,099,104). As set forth above for claim 15, NAVARRA and VERRERIES HIRTZ discloses the invention substantially as claimed, including provision of a "mounting plate" within the specificity recited. However, NAVARRA and VERRERIES HIRTZ do not disclose the heater element as being wrapped around one edge of the mounting plate.

In the same field of endeavor, Holzer, et al disclose a heater element to be mounted to a support plate of glass. Referring to the discussion of Figure 5, Holzer, et al teach that a convenient means of electrically connecting to the heater element can be provided by wrapping the heater element around at least one edge of the support plate, and terminating the element with a lug. A profile frame (16) clamps the assembly securely together for installation.

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It would have been obvious to one of ordinary skill to wrap the heater element around at least one edge of the support plate of NAVARRA and VERRERIES HIRTZ, in the interest of providing a convenient and secure lug for electrical connection of the heater element, as suggested by Holzer, et al.

With regard to claims 25 and 35, the profile frame (16) of Holzer, et al is fairly suggestive of a "bezel". Thus, it would have been obvious to one of ordinary skill to provide a bezel clamping the wrapped edge as recited, in the interest of providing a secure mechanical assembly with means for mounting, as suggested by Holzer, et al.

### ***Allowable Subject Matter***

Claims 12 – 14, 26 – 28, and 36 – 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter:

The prior art, taken alone or in combination, fails to teach or fairly suggest

the *combination*, particularly wherein a rolled seam is provided cooperating as recited in claims 12, 26, and 36; or

the *combination*, particularly wherein the heater element is provided as an elliptical spiral, as recited in claims 13, 14, 27, 28, and 38.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.



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Reiser, et al (U.S. Patent number 5,083,009) disclose a heater element for an automotive mirror, wherein the heater element can be cut to fit a selected mirror (Col. 7, line 43).

Maake (U.S. Patent number 3,798,419) disclose a heater element for an automotive mirror, the heater element comprising an expanded metal mesh.

VOLKSWAGEN AG (DE 195 05 206 A1) disclose a heater element for automotive mirrors, the element being provided in several sections.


Lhuillier (FR 2,732,182 A1) discloses a heater element for automotive mirrors, the element being sizable to fit a selected mirror.

OTSUKA CHEM CO LTD (JP 2000-012201 A) disclose a mirror heater element that can be adapted to differently sized automotive mirrors.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Juba whose telephone number is (571) 272-2314. The examiner can normally be reached on Mon.-Fri. 9 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Drew Dunn, whose number is (571) 272-2312 and who can be reached on Mon.- Thu., 9 - 5.

The centralized fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for *all* communications.

  
JOHN JUBA, JR.  
PRIMARY EXAMINER  
Art Unit 2872

September 17, 2004